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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/139,777	08/25/1998	ROBERT A. KNEE	UV-58	5715

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EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 05/20/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/139,777

Applicant(s)

KNEE ET AL.

Examiner

Andrew Y Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7 March 2002 have been fully considered but they are not persuasive.
2. The applicant argues that Sitnik fails to teach "receiving advertisements for said interactive television program guide." Whereas, the examiner agrees with the argument addressed by the applicant, Sitnik teaches receiving advertisements for an interactive television. Sitnik teaches a "controller which receives video data corresponding to at least two alternative images" (col. 2, ll. 10-20). Sitnik is silent on using those advertisements in the program guide. The combination of Sitnik and Alexander satisfy this limitation as addressed in the Office Action dated 17 December 2001.
3. The applicant argues that Sitnik fails to teach determining which advertisements should be display by said interactive television program guide. The examiner agrees in part; Sitnik teaches selecting one of a plural alternative images in video data, based on the user profile (col. 2, ll. 17-23; fig. 3, lab. S304). However, Sitnik is silent on displaying advertisement within the program guide. Alexander shows displaying advertisements within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract).
4. The arguments presented by the applicant are the same grounds of rejection taken by the examiner the Office Action dated 17 December 2001. The combination of

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Sitnik and Alexander addresses the limitations presented by the applicant, not solely Sitnik as argued by the applicant.

5. The applicant argues that "Sitnik teaches away from the modification that is proposed by the examiner." The examiner disagrees. Sitnik merely makes a cursory mention of other applications, such as an electronic program guide, within an interactive television (col. 7, ll. 25-28). Sitnik does not explicitly state any deficiency in the combination of advertisements and program guides. Furthermore, Sitnik teaches a positive recitation of using program guides (col. 7, ll. 25-27). Therefore, Sitnik does not teach away from proposed modifications.

6. The applicant alleges that the combination of Sitnik and Alexander may provide an inoperable system, but no specific support for the argument is provided.

7. Applicant argues that Sitnik fails to teach utilizing user input to the interactive television program guide to determine user values. Alexander teaches a program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by inputting to a program guide as taught by Alexander in order to respond to user input and create a customer profile.

8. Applicant argues that Sitnik fails to ^{disclose} the limitation of determining which advertisements should be displayed in the interactive television program guide.

Alexander teaches displaying an advertisement within the program guide (fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as

taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5, 9-10, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik in view of U.S. Patent No. 6,177,931 to Alexander et al.

In regards to claims 1, 5, and 12-15, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide. Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user

values (col. 6, 39-43). On column 2, line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison.

Regarding claims 2 and 16, Sitnik shows the use of non-volatile memory (col. 6, lines 41-43)

In respect to claim 3 and 17, Sitnik discloses a remote control as a viable means for a user transmitting device (col. 4, lines 56-59).

As for claim 4, the comparison of the preselected values with said values stored in memory is performed by said microprocessor are taught by Sitnik (col. 6, lines 23-43).

Regarding claim 9, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

In respect to claim 10, Sitnik provides a period for determining user values for demographic categories (col. 8, lines 8-13).

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik and U.S. Patent No. 6,177,931 to Alexander et al. in view of U.S. Patent No. 6,286,140 to Ivanyi and U.S. Patent No. 5,758,257 to Herz et al.

Regarding claim 7, Sitnik fails to disclose determining user values by channel and program demographic categories, and Herz teaches the determination of user values where the television program has a predetermined value of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art to modify Sitnik by adding at least one channel and program demographic category as taught by Herz in order to improve the accuracy of

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the demographic information. Herz teaches gathering information for a profile but fails to specify a channel. Ivanyi teaches monitoring of channel information (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Herz and Sitnik by gathering information from the channel as taught by Ivanyi in order to generate a user profile.

12. Claim 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik and U.S. Patent No. 6,177,931 to Alexander et al. in view of U.S. Patent No. 5,758,257 to Herz et al.

Regarding claim 8, Sitnik does not teach user values with weight values indicative of the effect said user input has on the user values for the demographic categories. Herz (col. 31-32, lines 63-10) discloses a weight value (Δ) that further defines the user value. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sitnik by using weight values to further customize the value of the user to the actual user.

Regarding claim 11, Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time to customize the advertisements accordingly in order to provide current up to date demographic data.

13. Claims 18-21, 24, 27-30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik in view of U.S. Patent No. 6,177,931 to Alexander et al. and U.S. Patent No. 6,002,393 to Hite et al.

Regarding claims 18 and 27, Sitnik teaches a transmitter located at a television station or studio (col. 3, ll. 48-49). Sitnik is silent on a database for the information pertaining to advertisements. Hite teaches a targeted commercial database at an ad administration facility (col. 7, ll. 11-14), which reads on a main facility having a database of information corresponding to the advertisements. Hite teaches categorizing the advertisements of associating advertisements with demographics such as dog owners (col. 1, ll. 14-24). Hite teaches placing an advertisement into categories; clearly, the advertisement is assigned preselected values (col. 7, ll. 7-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by adding an informational advertisement database as taught by Hite in order to accurately target advertisements towards a group of viewers. Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik also shows a user input receiver (col. 7, lines 47-57), and a

microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2 lines 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison.

Regarding claims 19 and 28, Sitnik teaches a memory, which stores user values (col. 6, ll. 39-43).

Regarding claims 20 and 29, Sitnik discloses a remote control as a viable means for a user transmitting device (col. 4, lines 56-59).

Regarding claims 21 and 30, Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28).

Regarding claims 24 and 33, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

14. Claims 23, 25, 26, 32, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik and U.S. Patent No. 6,177,931 to Alexander et al. and U.S. Patent No. 6,002,393 to Hite et al. in view of U.S. Patent No. 5,758,257 to Herz et al.

Regarding claims 23 and 32, Sitnik does not teach user values with weight values indicative of the effect said user input has on the user values for the demographic categories. Herz (col. 31-32, lines 63-10) discloses a weight value (Δ) that further defines the user value. Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify Sitnik by using weight values to further customize the value of the user to the actual user.

Regarding claims 25 and 34, Sitnik is silent on a minimum number of user inputs before deeming a demographic category meaningful and reflective of the user. Herz teaches that statistically, it is advantageous to gather a large number of samples (col. 13, ll. 12-28). Accordingly, Herz inherently teaches gathering at least a minimum number of user inputs before deeming a category statistically precise. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by gathering a minimum number of inputs as taught by Herz in order to accurately associate programming with the user for a given demographic.

Regarding claims 26 and 35, Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time to customize the advertisements accordingly in order to provide current up to date demographic data.

15. Claims 6, 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,570 to Sitnik and U.S. Patent No. 6,177,931 to Alexander et al. and U.S. Patent No. 6,002,393 to Hite et al. in view of U.S. Patent No. 5,758,257 to Herz et al. and U.S. Patent No. 6,286,140 to Ivanyi.

Regarding claims 6, 22, and 31, Sitnik teaches monitoring viewing habits in order to adjust the user profile (col. 7, ll. 41-57). However, Sitnik fails to teach using preselected demographic data associated with each television channel and program. Herz teaches the determination of user values where the program is indicative of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using a demographic category associated with a program as taught by Hite in order to maintain an accurate user profile. Herz teaches monitoring programs but fails to teach monitoring channels. Ivanyi teaches monitoring a channel (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by monitoring a channel in order to gather information about the user thereby collecting more information regarding the user to enhance the quality of the user profile.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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May 17, 2002